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June 25, 2018

VIA HAND DELIVERY
Jocelyn Boyd, Esquire
Chief Clerk and Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, SC 29210

RE: Application of Carolina Water Service, Inc. for Adjustment of Rates and Charges and Modifications to Certain Terms and Conditions for the Provision of Water and Sewer Service
Docket No. 2017-292-WS

Dear Ms. Boyd:

Enclosed please find for filing the Return to ORS Petition for Rehearing or Reconsideration with Exhibits on behalf of Carolina Water Service, Inc. in the above-referenced docket.

By copy of this letter, I am serving all parties of record.

If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me.

Sincerely,

Elliott & Elliott, P.A.

Scott Elliott

SE/lbk
Enclosures
cc: All parties of record w/enc.

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2017-292-WS

IN RE: Application of Carolina Water Service, Inc. for Adjustment of Rates and Charges and Modifications to Certain Terms and Conditions for the Provision of Water and Sewer Service	)))))	**RETURN TO ORS PETITION FOR REHEARING OR RECONSIDERATION**

Introduction

Carolina Water Service, Inc. ("CWS" or "Company") herewith submits its return to the Petition for Rehearing or Reconsideration ("Petition") of the Office of Regulatory Staff ("ORS"). The ORS Petition raises no matter not thoroughly litigated at trial and accordingly, the Petition should be denied.

The purpose of a petition for rehearing and reconsideration is to allow the Commission to identify and correct specific errors and omissions in its orders. Pursuant to S.C. Code Ann. § 58-27-2310, "[n]o right of appeal accrues to vacate or set aside, either in whole or in part, an order of the commission . . . unless a petition to the commission for a rehearing is filed and refused." A party cannot raise issues in a motion to reconsider that were not raised during the proceeding. See *Kiawah Prop. Owners Group v. Pub. Serv. Comm'n*, 359 S.C. 105, 113, 597 S.E.2d 145, 149 (2004).

CWS will address each of the ORS's arguments in the order in which they were made in its Petition.

1. **The Commission did not err when it adopted a rate design proposed by both CWS and the ORS.**

The ORS argues that the Commission erred in adopting a rate schedule not supported by the evidence in the record and which the parties and customers of the system had no opportunity to review or comment on prior to the Commission's Orders 2018-345 and 2018-345(A). The Commission should deny ORS's requested reconsideration of the rates approved in Order No. 2018-345(A) because: 1) ORS has known of CWS' rate design formula since January of 2018 and used virtually the same design to arrive at its own proposed rates, and 2) there is no basis for ORS's assertion that the rate design, which reflects the cost of service in CWS' two service territories is unfair or discriminatory.

ORS's complaint that "the rates approved by the Commission were only presented by CWS in its proposed Order, which was filed after the case was closed" ignores the fact that ORS also submitted proposed rates after the case was closed. ORS included rates with its proposed order without a detailed discussion of its rate design, because rate design was not a contested issue in this docket. Throughout the case, ORS used the same two Service Territory rate structure as CWS. R. p. 698, l. 11-17 (Schellinger). There was also a similar variation between the base facility charges for water service proposed by ORS. ORS's proposed Water Service Basic Facilities charge of $15.16 for Service Territory 1 ($ 0.78 more than the Commission's Order) and $27.74 ($ 0.85 less than the Commission's Order) for Service Territory 2. *See* ORS Proposed Order, Exhibit A. ORS cannot now complain about a rate design it not only failed to object to, but actually employed, in making its own recommendation to the Commission. *Kiawah Prop. Owners, supra.*

CWS' current rate design was first proposed in a settlement agreement among CWS, ORS, and the Forty Love Point in the company's previous rate case. R. p. 253, l. 14-25; p.

255, l. 1-9, p. 264, l. 18-25. The 2015 CWS rate case was the first rate case after the consolidation of United Utility Companies, Inc. ("United"), Utilities Services of South Carolina, Inc. ("USSC"), and Southland Utilities, Inc. ("Southland") with CWS. *See* Order 2015-341. Because of the wide disparities between the rates and cost of service of the different companies, CWS proposed two Service Territories for ratemaking purposes which were used in the settlement agreement. The settlement agreement was approved by the Commission, which found the proposed rate design was reasonable and fairly distributed the company's revenue requirement among customer classes. Order 2015-876, pp. 22-23.

In this case, on January 4, 2018, CWS provided ORS an *.xls* spreadsheet showing, among other things, the company's rate design calculation. The spreadsheet showed how CWS allocated its costs and requested revenues between the two Service Territories. It included all supporting schedules, organized by the former company business units, needed to create consolidated financials for the Service Territories, and rate design templates to calculate the rates required to produce the revenue required in each territory. This spreadsheet allowed the ORS to fully understand the company's rate design. A copy of the spreadsheet, in electronic format, with documentation of the ORS's underlying Audit Request and CWS' response, is attached as "Exhibit A". It is also the same spreadsheet used to calculate the rates in Order 2018-345(A).

At the hearing, CWS' Financial Planning and Analysis Manager, Robert M Hunter, explained the rate structure and the differences between the rates of the two Service Territories in response to a question from Commissioner Howard:

> Q Okay. Territory 1, I think their charge is like $56 for 6000 gallons, whereas in Territory 2, the charge is $92 for 6000 gallons. Why is there so much difference in the two territories?

> A [HUNTER] So it really comes down to looking at the actual cost of each territory. So when we put together the case, we look at the specific costs that are allocated or billed to those specific business units. And so Territory 2 is made up of some business units and Territory 1 is made up of other business units, so their rates are strictly based on what costs those customers are experiencing and the investments made in those areas.
> R. p. 520, l. 13-25. (emphasis added)

The ORS did not oppose CWS' rate design methodology. To the contrary, ORS employed virtually the same rate design as CWS when it made its recommendations to the Commission. ORS Regulatory Analyst, Matthew P. Schellinger testified in response to a question from Commissioner Elam:

> Q And based on that, can you tell me what an estimate of the new rates for a water and wastewater customer would be?
>
> A [SCHELLINGER] Sure. Once again, as an estimate. And I'm actually going to have to give you five different numbers here, because we've got residential who's on a purchased system, not on a purchased system, and then split between the different service territories. So, in Service Territory 1, for a purchased-water residential customer, they'd have a usage charge per thousand gallons of $7.09 and a base facility charge of $15.10. For a non-purchased-water customer, a usage charge of $5.87 and the base facility charge of $15.10. And I would like to mention I attempted to use the same rate-design philosophy and mechanism that the company proposed in their Application in kind of putting these rates together.
> R. p. 774, l. 6-22 (emphasis added)

ORS's auditor Zachary Payne also employed the same methodology to allocate costs between service territories to arrive at his recommendation for the company's revenue requirement (and the resulting rates). R., p. 732, l. 20 – p. 733, l. 11, and Exhibit 15 (Exhibit ZJP-5).

ORS agreed to this rate design in the 2015 rate case settlement and employed it throughout the current proceeding producing a similar difference in the water base facilities charge as CWS and the Commission. The rates in the Commission's Order result from that rate design. While the ORS suggests CWS "departed" from the rate design approved in the 2015 case, it offers no evidence to that effect. Petition, p. 5. Tellingly, while ORS is critical of the difference in water service base facilities charges for the two territories, it does not contend they were miscalculated, nor does it explain how the rate design was altered, even though it has the wherewithal to do so. In fact, the rates approved in Order 2018-345(A) reflect a correction made after consultation with the agency.[1] Therefore, ORS has no basis to now assert the Commission's adopted rate design is unfair or discriminatory.

2. The Commission award of recovery of sludge hauling expenses is supported by the record and consistent with regulatory accounting principles.

The ORS argues that the Commission erred in rejecting the ORS proposal to normalize sludge hauling costs, effectively awarding CWS the recovery of an additional $96,892 in expenses. The ORS argues that the Commission had no discretion to reject its argument that the sludge hauling costs must be normalized. However, the Commission is not bound by the ORS recommendation and the Commission's awarding CWS recovery of its sludge hauling expenses is supported by the credible and substantial evidence of record.

The amount of the test year sludge hauling costs are not in dispute. CWS witness Robert Gilroy testified in some detail that the higher sludge hauling costs were the result of additional sludge removal requirements at the Friarsgate wastewater treatment plant. R. pp. 358-360. Gilroy explained the sludge production process in some detail testifying that

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[1] *See* Letter of Charles L.A. Terreni to the Commission dated May 21, 2018.

excess sludge inventory must be removed frequently to keep sludge from building up to unacceptable levels which could cause problems with effluent quality. *Id.* In addition, Gilroy testified that the Friarsgate WWTF was under a DHEC consent order which recommended that the sludge inventory be kept at a constant rate. R. p. 365, l. 3-12. Maintaining a constant rate of sludge inventory required a more expensive manner of sludge hauling. *Id.* While ORS argues the sludge hauling costs incurred during the test year were unusual, the record supports the opposite. Mr. Gilroy testified that CWS' truck hauling costs have risen and he did not anticipate sludge hauling costs to go down. R. p. 587, ll. 3 – 23. Mr. Cartin also testified that he anticipated higher sludge hauling costs moving forward. R. p. 482, l. 25 – p. 483, l. 2, p. 587, l. 10-23. Instead, ORS only pointed to the increase in sludge hauling costs during the test year compared to the previous two years and concluded they were "atypical". R. p. 753, l. 1-12, p. 770, l. 1-13. ORS's position was solely based on statistics. If offered no evidence to contradict Mr. Gilroy's testimony that the increased costs in the test year were driven by DHEC requirements and rising transportation costs. The Commission had ample basis for crediting the testimony of these witnesses and awarding CWS cost recovery of the sludge hauling costs based on the test year.

The ORS also suggests that because CWS intends to interconnect its Friarsgate WWTF to the City of Columbia, it should be denied recovery. Pet. p. 8. Any cost reduction arising from an interconnection of the Friarsgate WWTF should be addressed after it has occurred and is known and measurable.

The Commission is vested with the authority to determine the amount of expense to be charged to the ratepayers. *Seabrook Island Property Owners v. Public Service Commission*, 303 S.C. 493, 401 S.E.2d 672 (1992). The clear inference from the record is that CWS

would be expected to incur increased sludge hauling costs on a going forward basis. Based on the evidence of record, the Commission found the sludge hauling costs in the test year represented typical conditions and provided a reasonable basis for projecting future expense. Accordingly, the Commission found the sludge hauling costs to be recoverable as known and measurable, prudently incurred costs and the ORS petition in this regard should be denied. See *Hamm v. South Carolina Public Service Commission*, 309 S.C. 282, 422 S.E.2d 110 (1992).

3. The Commission award of recovery of litigation costs is supported by the record.

The ORS argues that the Commission erred in awarding CWS recovery of $998,606 in legal expenses over a 66 2/3year period and petitions the Commission to reconsider its holding. Pet. p. 8. However, the Commission properly concluded that the legal expenses were known and measurable and prudently incurred.

ORS repeats its argument that the legal fees should not be recoverable because they were incurred in connection with five legal actions related to the company's operation of the I-20 WWTF. Pet. p. 9. ORS asserts the Commission's Order forces "CWS's rate payers to pay for the Company's failure to comply with State and Federal environmental laws." *Id.* The record supports the opposite.

As the Commission found in its Order, legal fees were incurred for a lawsuit brought by 1) the Congaree Riverkeeper in the U.S. District Court, 2) a condemnation action brought by the Town of Lexington, 3) a challenge to DHEC's denial of a permit for the I-20 plant in the Administrative Law Court; 4) the Town of Lexington's challenge in the Administrative Law Court of DHEC's order that it interconnect with CWS, and 5) CWS' lawsuit against the EPA and the Town of Lexington in the United States District Court. See R. Exhibit 16.

Most of the fees ($925,886.54) were related to the Riverkeepr suit, the actions in the Administrative Law Court, and CWS' suit against the EPA and the Town of Lexington. R. p. 289, l. 18 – p. 290, l. 12. While, the Court had issued an Order finding violations of CWS' NPDES permit in that case –primarily for failure to connect to the Town's system (when the Town rejected all CWS requests to do so), it was still ongoing at the time of the hearing. R. p.290, l. 7-18, p. 489, l. 1-20. Since the hearing, the Court has granted CWS' motion for appointment of a U.S. Magistrate Judge to conduct a mediation conference. Order of May 29, 2018, 3:15-CV-194-MBS. A copy of the order is provided to the Commission as "Exhibit B" as permitted by S.C. Code Ann. 58-5-330. The outcome of this litigation is far from clear and what penalty is appropriate under the circumstances will be determined in future proceedings. R. p. 290, l. 19-24.

CWS witness Cartin testified that CWS had no choice but to defend against the Riverkeeper's lawsuit and prosecute related actions. R. p. 490, l. 22 – p. 291, l. 7. He further testified that the Riverkeeper brought his suit to force an interconnection of the I-20 plant to the Town of Lexington's ("Town") sewer system, an action CWS was ready to take, but which the Town refused to allow. R. p. 489, ll. 8-20. It was not until 2016, after DHEC ordered the Town to seek and interconnection with CWS that the Town brought its condemnation proceeding R. p. 567, ll. 1-12. When the condemnation action was filed, CWS readily allowed the Town to take possession of the I-20 system reserving its right to seek recovery of the full value of the I-20 system. *Id.* Significantly, CWS did not seek recovery of any fines or penalties in connection with the proceedings. R. p. 13, l. 1-18. Ratepayers are not being asked to pay for environmental violations.

The ORS argues the Commission should have made findings regarding the reasonableness of the amount of the legal fees involved. Pet. p. 10. However, during the proceeding, ORS did not challenge the reasonableness of the fees involved, only why they were incurred. ORS cannot argue, for the first time on reconsideration, that the Commission should have conducted a SCACR Rule 407 style analysis . *Kiawah Property Owners*, *supra*. The ORS had the opportunity to review the attorney's fee invoices during its investigation and audit. R. p. 760, ll. 19-23. Yet the ORS offered no evidence at trial questioning the reasonableness of the fees. Accordingly, the ORS has failed to demonstrate that the litigation costs are unreasonable. *Patton v. South Carolina Public Service Commission*, 280 S.C. 288, 312 S.E.2d 257 (1984).

ORS argues that the 66 2/3 yr. amortization of the legal fees was unprecedented and arbitrary. Pet. p11. However, there is precedent for this amortization period in the last rate case in a settlement jointly proposed by CWS and the ORS. R. 493. To be sure, the settlement does not preclude ORS from arguing against the amortization period in the present case, but it is inaccurate for the ORS to claim the Commission has never approved an amortization of this length. The amortization period is also consistent with the depreciation period for CWS' assets. R. p. 494, l. 1-7. Also, ORS offered no testimony the 66 2/3 amortization period was improper and unreasonable. *See* R. pp. 685, 702, 711-712, 786

ORS challenged CWS' recovery of legal fees ($72,719.60) incurred in connection with the condemnation action. Pet. p. 11; R. Ex. 16. Again, there is no basis to suggest CWS acted imprudently incurring these fees to represent it in the pending condemnation – or that the amount was unreasonable. ORS points to the possibility that CWS could be awarded recovery of attorney's fees and costs if it were to prevail in the action. R. p. 712, l. 6-22.

However, any such recovery is purely speculative at this time, as the company is litigating the value of the system. R. p. 290, l. 25 – p. 291, l. 4. Furthermore, CWS has said it would credit any recovery of legal fees and costs to the benefit of the ratepayers if it is achieved. R. p. 293, l. 1-16.

The Commission is vested with the authority to determine the amount of expense to be charged to the ratepayers. *Seabrook Island Property Owners v. Public Service Commission*, 303 S.C. 493, 401 S.E.2d 672 (1992). The Commission found that like all businesses, CWS will incur litigation costs associated with its business operations and should act to protect itself and its ratepayers against claims for liability. In addition, the Commission found that CWS had no alternative but to defend itself in these proceedings. Litigation costs are recoverable in rates. *Hamm v. South Carolina Public Service Commission*, 309 S.C. 282, 422 S.E.2d 110 (1992). The Commission finding that the litigation expenses were prudently incurred is supported by the credible and substantial evidence of record.

4. The Commission award of recovery of the remediation costs of the EQ basin liner replacement is supported by the record.

The Commission authorized CWS to recover $1,081,375 in costs associated with the engineering and environmental remediation in connection with the replacement of the EQ basin liner at the Friarsgate WWTF. The Commission acted within its authority and the Petition should be denied.

The ORS argues that the Commission erred when it awarded CWS and additional $1,081,375 in rate base for the Friarsgate EQ basin liner project. The ORS argues that the project was not complete at the time of the hearing and was not used and useful. In addition, the ORS argues that EQ liner may never be completed because of improper installation and because of the likely interconnection of the Friarsgate WWTF with the City of Columbia.

The record reflects that CWS hired an engineering firm, to assist in formulating and presenting a Corrective Action Plan required by a Consent Order with DHEC for various changes and improvements made to the Friarsgate WWTF. R. p. 555, l. 16 – p. 557, l; 1R. p. 555, ll. 19-25. DHEC also required CWS to have a professional engineer who was a wastewater expert on site to supervise the plant's operations and the engineer provided monthly reports to DHEC. R. p. 556, ll. 14-22; R. p. 556, l. 22 – p. 557, l. 1.

CWS witness Cartin, testified that the DHEC Consent Order required CWS to remove the EQ liner at the Friarsgate Plant, remediate the soil underneath the liner, and replace the liner. R. pp. 318-319. CWS spent $1,081,375 to remove the EQ liner and remediate the soil under the liner. *Id.* The Company had not installed the new liner yet but is in the process of doing so. *Id.* CWS acted expeditiously to comply with the DHEC mandate. CWS did not seek recovery of the cost of the new liner. R. p. 505, ll. 8-14. CWS' compliance with DHEC's Consent Order was required for CWS' continued operations and the public has benefited from the removal of the old EQ liner and the soil remediation, and therefore the costs should be included in rate base. *Id.*

The Commission is vested with the authority to determine the expense to be charged to the ratepayers. *Seabrook Island Property Owners, supra.* The Commission also has the discretion in its exercise of its supervisory and regulatory authority to provide incentives to public utilities to upgrade their systems to meet environmental concerns. *Patton, supra.* Here, the Commission found the measures required by the DHEC Consent Order were in the public interest and concluded that disallowing recovery of remediation costs acts to impair a utility's ability to address environmental concerns and conflicts with the policy of allowing recovery of necessary and prudently incurred costs. Further, the Commission found the

$1,081,375 cost of the removal of the existing EQ liner and environmental remediation to be known and measurable. The Commission acted within its discretion to incentivize CWS to act promptly to remediate the soils under the EQ liner providing prompt regulatory and environmental compliance and immediate environmental and customer benefits. The ORS Petition in this regard should be denied.

5. **The Commission properly deferred resolution of certain tax issues to Docket No. 2017-381-A.**

The Commission has acted in this docket to protect CWS' ratepayers by affording them the benefits of the Tax Cut and Jobs Act of 2017 ("Act"). First and foremost, Order No. 2018-345(A) recognized that the federal corporate tax rate was reduced from 35% to 21%, and accordingly set rates which reduced CWS' requested revenue by approximately $800,000 (CWS' application was filed before the Act). The Commission has ordered that the remaining issues raised by the Act be addressed in Docket No. 2017-381–A. Oral arguments on the issues raised in the ORS Petition have been set for July 10, 2018. The Commission acted within its authority to address the issues raised by the ORS Petition in Docket No. 2017-381-A, and the decision was justified since the design of CWS's proposed CIAC tariff is one of interest to the parties in that docket. Certainly, the public has an interest in the uniform adjudication of these questions. In addition, because only CWS requested the Commission act to require developers to bear the added cost to CIAC imposed by the Act, the ORS has no standing to object to the Commission's decision to resolve this issue in Docket No. 2017-381-A.

6. **The Commission's Finding of the Appropriate ROE was supported by expert testimony in the record.**

The Commission approved a return on equity ("ROE") for CWS of 10.5% at the low end of the range recommended by CWS' witness Dylan D'Ascendis. The ORS argues the Commission should have adopted the recommendation of its witness, Douglas Carlisle, Ph.D., instead. The Commission is not bound by the recommendations of the ORS. *Utilities Services of S.C., Inc. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 708 S.E.2d 755 (2011). The Commission's Order setting the ROE is based upon credible and substantial evidence of record and the ORS Petition in this regard should be denied.

The Commission relied on the testimony of Dylan D'Ascendis, a certified rate of return analyst, who has testified in more than 30 different proceedings in 15 state jurisdictions. R. p. 386, l. 7-21. He maintains the benchmark index against which the Hennesey Gas Utility Mutual Fund performance is measured. R. Ex. 8, Appendix A. He has published academic articles on the cost of capital and presented on the subject before industry and professional organizations. *Id.* Mr. D'Ascendis' credentials were unchallenged at the hearing.

ORS's argument regarding the Mr. D' Ascendis' recommendation of a risk premium adjustment is based on an incorrect reading of the Commission's Order. The Commission approved the 10.5 % ROE used by CWS in its Application, and found it supported by Mr. D' Ascendis testimony. Order, p. 14. The Commission did observe "there is no dispute that CWS is significantly smaller than its proxy group counterparts, and therefore it may present a higher risk." *Id.* However, it did not make a specific finding adopting Mr. D' Ascendis' adjustment of .50 basis points. The Commission's approved ROE was only .05% more than the low end of Mr. D' Ascendis' range.

Even if the Commission did agree with Mr. D'Ascendis' recommendation of a relative size risk adjustment of .50 basis points, it was justified because CWS has considerably smaller market capitalization of common equity than the companies used in his ROE proxy group. R. 426, l. 10-17. CWS' market capitalization is $57.209 million, while the average of the Utility Proxy Group is $3.544 billion. R. p. 427. Mr. D'Ascendis' common sense proposition is that, *ceteris paribus*, a smaller company is a riskier proposition than a larger company. *Id.* He testified smaller companies face more risk exposure to business cycles and economic conditions, and that the loss of revenues from a few larger customers would have a greater effect on a smaller company than on a larger company with a larger, more diverse, customer base. This added risk leads investors in smaller companies to demand higher rates of return. *Id.* Since, Mr. D'Ascendis rate of return was determined using a proxy group of much larger companies, a relative size adjustment was warranted. *Id.* While Mr. D'Ascendis' calculations justified a size adjustment of more than 4%, he limited his recommendation to a .50% increase in ROE. R. p. 428, l. 3-19. Even comparing the size of CWS' parent company to the proxy group, a size adjustment of .87% would have been warranted. *Id.* Instead, the Commission agreed with Mr. D' Ascendis' conservative recommendation.

ORS's assertion the PSC has "refused to accept" a small company adjustment in seven rate cases is not supported by the plain language of the orders on which it relies. ORS Pet. p. 15.[2] The nine orders and seven dockets cited by the ORS are summarized below for ease of reference.

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[2] The cases cited by the ORS involved CWS, Tega Cay Water Service, Inc. ("TCWS"), United Utility Companies, Inc. ("UUCI") and Utilities Services of South Carolina, ("USSC").

Docket No.	Order	Utility	Disposition
2015-199-WS	2015-876	CWS	Settlement
2013-201-WS	2013-910	USSC	Settlement
2013-199-WS	2013-909(A)	UUCI	Settlement
2012-177-WS	2013-79	TCWS	Rates Approved
2011-47-WS	2011-784	CWS	Application Denied
2011-47-WS	2014-320	CWS	Settled on Remand
2009-479-WS	2010-557	TWCS	Rates Approved
2009-473-WS	2010-375	UUCI	Application Denied
2009-473-WS	2012-543	UUCI	Settled on Remand

Five of the seven cases cited by ORS ended with a settlement in which the Commission approved an ROE jointly proposed by the ORS and the Company. There was no small company adjustment for the Commission to rule on in those cases. Only in two cases brought by Tega Cay Water Service, Inc. ("TCWS") did the Commission have a recommended size-based adjustment before it when it ruled.[3] However, neither of these cases provide insight on the Commission's view of the risk-based adjustment, nor are they binding on the current Commission.

In the 2009 docket, TCWS witness Pauline Ahern recommended a size-based risk adjustment of 30 to 40 basis points.[4] In Order 2010-557, the Commission authorized a 9.57% ROE which it derived from a range of 9.08% to 10.07% recommended by Dr. Carlisle. Order 2010-557, p. 9. However, it should be noted the company had requested a 9.60% ROE in its proposed order.[5] The Commission's ROE finding was very close to TCWS' recommendation.

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3 Docket No. 2009-473-WS, Docket No. 201.

4 Docket No. 2009-473-WS, see Prefiled Direct Testimony of Pauline Ahern, p. 6, Ahern, R. Vol. 2, p. 143.

5 Proposed Order of TCWS, p. 11. Docket No. 2009-473-WS.

In the 2013 case, Ms. Ahern recommended an adjustment of 35 basis points due to TCWS' small size.[6] The Commission authorized an ROE of 9.00% derived from a range of 8.48% and 9.98% recommended by Dr. Carlisle. Order No. 2013-79. The Commission did not address Ms. Ahern's risk premium recommendation in its Order. Order No. 2013-79, p. 12.

It should be noted that the TCWS cases involved a different company and a different ROE witness. While TCWS was a subsidiary of Utilities, Inc., it was not merged with CWS. Instead, TCWS' assets were sold to the City of Tega Cay in 2014. *See* Order No. 2014-407. The Commission did not discuss Ms. Ahern's risk premium recommendations in either case. A multitude of factors go into the Commission's discretionary determination of the appropriate ROE, and these cases offer no support to ORS's request for reconsideration.

The Commission did not rule on a risk premium adjustment in the other orders cited by ORS. In Order 2015-876, Order 2013-910, and Order 2013-909(A), the Commission approved an ROE jointly recommended by the company and the ORS. In Order 2010-375, the Commission denied UUCI's application in its entirety, rejecting the recommendations of the company and the ORS. That case was appealed and settled on remand with a jointly recommended ROE by the company and the ORS. Order 2012-547. Similarly, the Commission denied CWS rate relief entirely in Order 2011-784, rejecting the company and the ORS's recommendations; the case was resolved by settlement in Order 2014-320, which approved a jointly recommended ROE.

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[6] Docket No. 2012-177-WS, see Prefiled Direct Testimony of Pauline Ahern, p. 12, R. Vol. 2, p. 354, ll. 27-36).

ORS argues the Commission erred in accepting Mr. D'Ascendis' ROE recommendation because his Comparable Earning Model ("CEM") was not performed in the manner advocated by Dr. Carlisle. Pet. p. 15. Mr. D'Ascendis performed a CEM analysis which he named "Cost of Equity Models Applied to Comparable Risk, Non-Price Regulated Companies" among the five analyses he used to arrive at his recommended range of ROE. R. P. 397.[7] Dr. Carlisle also used the CEM, but he and Mr. D' Ascendis disagreed about the selection of non-price regulated companies. Order, p. 13. The Commission agreed with Mr. D' Ascendis finding that his "non-price regulated proxy group more accurately reflects the total risk by price regulated companies such as CWS. Order," p. 14.

Mr. D'Ascendis testified that a non-regulated proxy group should be selected using more than *beta*, a single indicator of systematic risk as Dr. Carlisle does. R. p. 446, l. 11 – p. 447, l. 16. Mr. D' Ascendis' selection criteria for the non-regulated proxy group reflects both unsystematic risk and systematic risk. R. p. 447, l. 1-23. He cited to an article published in Financial Quarterly Review to support his position.[8]

Dr. Carlisle responded that *beta* was the appropriate single criterion for selection of his proxy group because it measures systematic, non-diversifiable risk. R. p. 673, l. 1-10. He rejected the consideration of "non-systematic risk", the risk associated with an individual company, as unnecessary and inaccurate. *Id.* Dr. Carlisle cited no authority to support his position.

Mr. D' Ascendis also took issue with Dr. Carlisle's singular reliance on the growth in book value of the non-regulated proxy group when computing his CEM analysis. R. p.

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[7] ORS refers to this analysis as a Comparable Earning Model ("CEM) in its Petition for Rehearing. p. 15.

[8] *"Comparable Earnings: New Life for an Old Precept"* Frank J. Hanley and Pauline M. Ahern, Financial Quarterly Review, Summer 1994. Included in Exhibit 9.

448, l. 1-13. In selecting his proxy group, Mr. D' Ascendis relied on *beta* coefficients and related statistics derived from Value Line regression analyses of weekly market prices of the most recent five years. R. p. 423, l. 6 - p. 424, l. 5. Mr. D' Ascendis not only looked to systemic risk, he also looked to each company's "specific, diversifiable risk." p. 424, l. 1-5. He selected companies with similar systemic (*beta*) and non-systemic (residual standard errors from regression analyses) for his proxy group. *Id.*

The Commission has ample basis in the record to support its finding that Mr. D' Ascendis' selection criteria were superior to those employed by Dr. Carlisle. See Order 2018-345-A.

The ORS's assertion that the Commission "has similarly, in the same cases, ruled against accepting Mr. D' Ascendis' Comparable Earnings ("CEM") Model is incorrect." Pet. p. 15. Again, the only cases cited by the ORS which do not involve settlements are the TCWS cases. The Commission did not make any specific findings regarding Dr. Carlisle's CEM analysis and the selection of his proxy group in either case. See Order 2010-557, p. 11 and Order 2013-79, p. 12. None of the cases cited by the ORS any way precludes this Commission from agreeing with Mr. D' Ascendis' testimony.

ORS also challenges the Commission's refusal to adopt Dr. Carlisle's downward adjustment of 0.02 % to CWS' cost of debt. Dr. Carlisle explained his recommendation as follows: "I adjusted the Cost of Debt from 6.60% to 6.58% to protect the ratepayer from the unfavorable terms of the Long-Term Debt as structured by the Company" and referred to his position in past CWS cases. R. 649, l. 21 – 650, l. 9. The Commission properly rejected Dr. Carlisle's adjustment finding the record devoid of evidence Utilities, Inc. acted imprudently

or unreasonably when it entered into its agreements for long-term debt. Order 2108-345(A), p.8.

ORS claims the Commission "accepted the adjustment in all the above cited prior Utilities, Inc. company cases." Pet. p. 16. The Commission did no such thing. Looking at the contested cases first, Dr. Carlisle did not recommend a cost of debt reduction in TCWS' 2009 case. In the 2012 case, Dr. Carlisle recommended a reduction of in TCWS' cost of debt to eliminate "flotation costs". *Id.* p. 12 l. 1-3. The Commission made no finding reducing the cost of debt to eliminate flotations costs. Order 2013-79, p. 12. The Commission said it "considered both the public witness testimony regarding quality of service and Dr. Carlisle's testimony concerning the Company's high cost of debt in determining a just and reasonable return on equity" *Id.*

As discussed above, the remaining cases involved settlements, which were accepted by the Commission as reasonable compromises between the parties and in the best interests of the customers. In the settlement of CWS' last case, the parties proposed rates calculated with a 5.58% cost of debt rate, but the Commission approved the settlement without any specific finding regarding the rate. Order. 2015-876, p. 22. The Commission made no findings regarding cost of debt or the elimination of flotation costs in the remaining cases, nor is the any record of the cost of debt rate used by the parties to compute their proposed rates.

Conclusion

The Company requests that the Commission set its decision on the ORS Petition at the agenda meeting scheduled for June 27, 2018. Notwithstanding the ORS Petition, the rates authorized by Order. No. 2018-345(A), are effective as of the date of the order. S.C. Code Reg. 103-853. As ordered by the Commission, CWS mailed its customers the Notice Regarding the Public Service Commission's Decision in Order. No. 2018-345(A) dated May 30th, 2018. The rates authorized in Commission Order No. 2018-345(A) are to be placed in effect June 29, 2018. The ORS Petition does not automatically stay Order No. 2018-345(A). S.C. Code Reg. 103-854(D).

However, the public interest would be best served if the Commission acted expeditiously to review and make its ruling on the ORS Petition. Accordingly, CWS respectfully requests that the Commission set the matter on the June 27, 2018 agenda, and for the foregoing reasons, CWS respectfully submits the ORS Petition be denied.

Signatures follow

ELLIOTT & ELLIOTT, P.A.

/s/ Scott Elliott

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Attorneys for Applicant Carolina Water Service, Inc.

Columbia, South Carolina
June 25, 2018

EXHIBIT A

(CD ROM submitted, not efiled)

DOCKET NO. 2017-292-WS

IN RE: Application of Carolina Water Service, Inc. for Approval of an Increase in its Rates for Water and Sewer Services	)))	**Office of Regulatory Staff Utility Rates Request #8**

1. Please provide detailed work papers supporting and explaining all accounting, pro forma and proposed rate increase adjustments in Exhibit B, Schedule C, D, E, F, and G of the Application. Please provide these work papers in original MS Excel format with intact formulas and links.

Response:

Please see file labelled "ORS Rates Request #8 – Filing Backup & Work Papers.xlsx" which includes Exhibit B, Schedules C, D, E, F and G with supoorting calculations intact. Additional support for work papers in Exhibit B was provided with response 1.10 of the First Audit Information Request. If any further support or backup for work papers is needed CWS will make it available upon request.

RESPONDENT: Robert Hunter, Financial Planning & Analysis Manager

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

CONGAREE RIVERKEEPER, INC., Plaintiff, v. CAROLINA WATER SERVICE, INC., Defendant.	)	Case No. 3:15-CV-194-MBS

ORDER

This matter is before the Court on the motion of Defendant Carolina Water Service, Inc., requesting the entry of an order appointing a United States Magistrate Judge from the Charleston Division as mediator under Local Civil Rule 16.06 to conduct a mediation conference in Charleston, South Carolina, pursuant to Local Civil Rule 16.07 and modifying the current schedule regarding this matter in order to accommodate a mediation conference. The Court is informed that Plaintiff Congaree Riverkeeper, Inc. consents to the motion.

The Court has previously granted in its April 4, 2018, Text Order, ECF No. 107, the parties' joint request to hold pending filing deadlines in abeyance while the parties engaged in settlement discussions. In moving the Court to appoint a mediator, Defendant reports that, although no settlement has been achieved, worthwhile negotiations have taken place and the services of a mediator might be useful in achieving resolution of this matter.

Having considered the motions and for good cause shown and with the consent of Plaintiff,

1. The Court grants the motion and appoints United States Magistrate Judge Mary Gordon Baker as mediator in this matter pursuant to Local Civil Rule 16.06(D);

2. The parties shall have thirty-five (35) days within which to mediate this case in accordance with the Local Civil Rules;

3. An in-person mediation shall occur in Charleston, South Carolina; and

4. If the mediation results in a declaration of an impasse under Local Civil Rule 16.10(G), the parties shall promptly notify the Court and thereafter propose a further amended briefing schedule for those matters left unresolved.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

May 29, 2018

BEFORE

THE PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

DOCKET NO. 2017-292-WS

CERTIFICATE OF SERVICE

I, **CARL E. BELL,** hereby certify that I have, on this **25th day of June 2018,** served the ***CWS RETURN TO ORS PETITION FOR REHEARING OR RECONSIDERATION*** on the parties listed below by email, and US mail, to the following person(s) and addresses:

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June 25, 2018
Columbia, South Carolina